



MARIN COUNTY | NAPA COUNTY | UNINCORPORATED CONTRA COSTA COUNTY | UNINCORPORATED SOLANO COUNTY
BENICIA | CONCORD | DANVILLE | EL CERRITO | FAIRFIELD | LAFAYETTE | MARTINEZ | MORAGA | OAKLEY
PINOLE | PITTSBURG | PLEASANT HILL | RICHMOND | SAN PABLO | SAN RAMON | VALLEJO | WALNUT CREEK

Board of Directors Meeting
Thursday, May 19, 2022
7:00 P.M.

This Meeting will be conducted via teleconference pursuant to the requirements of [Assembly Bill No. 361](#). By using teleconference for this meeting, MCE continues to promote social distancing measures recommended by local officials.

Members of the public who wish to observe the Meeting and/or offer public comment may do so telephonically via the following teleconference call-in number and meeting ID:

For Viewing Access Join Zoom Meeting:

<https://us02web.zoom.us/j/82085254745?pwd=dWs0b1NTbWNYbjRJbVZLMVZzZjZrUT09>

Dial: (669) 900-9128
Webinar ID: 820 8525 4745
Meeting Passcode: 205749

Agenda Page 1 of 2

1. Roll Call/Quorum
2. Board Announcements (Discussion)
3. Public Open Time (Discussion)
4. Resolution No. 2022-07 Authorizing Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e) (Discussion/Action)
5. Report from Chief Executive Officer (Discussion)
6. Consent Calendar (Discussion/Action)
 - C.1 Approval of 3.17.22 Meeting Minutes
 - C.2 Approved Contracts For Energy Update
 - C.3 Second Agreement with EV.Energy Corp.

Agenda Page 2 of 2

7. Spare the Air Leadership Award Presentation (Discussion)
8. Update on MCE Trip to Washington DC (Discussion)
9. Board Matters & Staff Matters (Discussion)
10. Adjourn

The Board may discuss and/or take action on any or all of the items listed on the agenda irrespective of how the items are described.

DISABLED ACCOMMODATION: If you are a person with a disability which requires an accommodation, or an alternative format, please contact the Clerk of the Board at (925) 378-6732 as soon as possible to ensure arrangements for accommodation.



May 19, 2022

TO: MCE Board of Directors

FROM: Catalina Murphy, Senior Legal Counsel

RE: Resolution No. 2022-07 Authorizing Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e) (Agenda Item #04)

ATTACHMENT: Proposed Resolution No. 2022-07 Authorizing Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e)

MCE Board of Directors:

SUMMARY:

Assembly Bill (AB) No. 361 (Rivas), signed by Governor Gavin Newsom on September 16, 2021, amends the Brown Act¹ to allow a local agency to use teleconferencing during a state-proclaimed state of emergency without meeting certain Brown Act teleconference requirements.

Given the current emergency-state of the Covid-19 pandemic, there is an ongoing need for holding teleconference meetings for the MCE Board of Directors, MCE Executive Committee, and MCE Technical Committee. Therefore, in order for MCE to continue holding Board and Committee meetings by teleconference, the Board of Directors must make the following findings by majority vote:

1. The Board of Directors has reconsidered the circumstances of the state of emergency, as designated by the Governor.
2. The Board of Directors finds that one or both of the following circumstances exists:

¹ Gov. Code, §§ 54950 et seq.

- a. The state of emergency continues to directly impact the ability of members to meet safely in person; or
- b. State or local officials continue to impose or recommend measures to promote social distancing.

Staff recommends adopting proposed Resolution No. 2022-07 Authorizing Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e), which makes the initial required AB 361 findings for authorizing remote teleconference meetings.

Fiscal Impacts: None.

Recommendation:

Adopt proposed Resolution No. 2022-07 Authorizing Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e).

RESOLUTION 2022-07

A RESOLUTION OF THE BOARD OF DIRECTORS OF MARIN CLEAN ENERGY AUTHORIZING REMOTE TELECONFERENCE MEETINGS FOR THE BOARD OF DIRECTORS AND EVERY COMMITTEE OF THE BOARD OF DIRECTORS PURSUANT TO GOVERNMENT CODE SECTION 54953(e)

WHEREAS, Marin Clean Energy (MCE) is a joint powers authority established on December 19, 2008, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, MCE members include the following communities: the County of Marin, the County of Contra Costa, the County of Napa, the County of Solano, the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the City of Concord, the Town of Corte Madera, the Town of Danville, the City of El Cerrito, the Town of Fairfax, the City of Fairfield, the City of Lafayette, the City of Larkspur, the City of Martinez, the City of Mill Valley, the Town of Moraga, the City of Napa, the City of Novato, the City of Oakley, the City of Pinole, the City of Pittsburg, the City of Pleasant Hill, the City of San Ramon, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of Sausalito, the City of St. Helena, the Town of Tiburon, the City of Vallejo, the City of Walnut Creek, and the Town of Yountville; and

WHEREAS, MCE is subject to various provisions of the California Government Code; and

WHEREAS, Government Code section 54953(e), as amended by Assembly Bill No. 361, allows legislative bodies to hold open meetings by teleconference without reference to otherwise applicable requirements in Government Code section 54953(b)(3), so long as the legislative body complies with certain requirements, there exists a declared state of emergency, and one of the following circumstances is met:

1. State or local officials have imposed or recommended measures to promote social distancing.
2. The legislative body is holding the meeting for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
3. The legislative body has determined, by majority vote, pursuant to the above, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

WHEREAS, the Governor of California proclaimed a state of emergency pursuant to Government Code section 8625 on March 4, 2020; and

WHEREAS, the MCE Board of Directors desires to hold the MCE Board of Directors, MCE Executive Committee, and MCE Technical Committee public meetings by teleconference consistent with Government Code section 54953(e).

NOW, THEREFORE, BE IT RESOLVED, by the MCE Board of Directors:

- A. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
- B. The MCE Board of Directors hereby finds and declares the following, as required by Government Code section 54953(e)(3):
 1. The Governor of California proclaimed a state of emergency on March 4, 2020, pursuant to Government Code section 8625, which remains in effect.
 2. State or local officials have imposed or recommended measures to promote social distancing.
 3. The legislative body has determined that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

PASSED AND ADOPTED at a regular meeting of the MCE Board of Directors on this 19th day of May, 2022, by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
County of Marin				
Contra Costa County				
County of Napa				
County of Solano				
City of American Canyon				
City of Belvedere				
City of Benicia				
City of Calistoga				
City of Concord				
Town of Corte Madera				
Town of Danville				
City of El Cerrito				
Town of Fairfax				
City of Fairfield				
City of Lafayette				
City of Larkspur				

City of Martinez				
City of Mill Valley				
Town of Moraga				
City of Napa				
City of Novato				
City of Oakley				
City of Pinole				
City of Pittsburg				
City of Pleasant Hill				
City of San Ramon				
City of Richmond				
Town of Ross				
Town of San Anselmo				
City of San Pablo				
City of San Rafael				
City of Sausalito				
City of St. Helena				
Town of Tiburon				
City of Vallejo				
City of Walnut Creek				
Town of Yountville				

CHAIR, MCE

Attest:

SECRETARY, MCE

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MCE BOARD MEETING MINUTES

Thursday, March 17, 2022

7:00 P.M.

This Meeting was conducted pursuant to the requirements of [Assembly Bill No. 361](#) (September 16, 2021) which allows a public agency to use teleconferencing during a Governor-proclaimed state of emergency without meeting usual [Ralph M. Brown Act](#) teleconference requirements. Committee Members, staff and members of the public were able to participate in the Committee Meeting via teleconference.

- Present:**
- Denise Athas, City of Novato
 - Edi Birsan, City of Concord
 - Barbara Coler, Town of Fairfax
 - Cindy Darling, City of Walnut Creek
 - Gina Dawson, City of Lafayette
 - David Fong, Town of Danville
 - Maika Llorens Gulati, City of San Rafael
 - Janelle Kellman, City of Sausalito
 - C. William Kircher, Town of Ross
 - Lisa Motoyama, City of El Cerrito
 - Katy Miessner, City of Vallejo
 - Leila Mongan, Town of Corte Madera
 - Devin Murphy, City of Pinole, Acting Chair
 - Elizabeth Pabon-Alvarado, City of San Pablo
 - Gabe Paulson, City of Larkspur
 - Scott Perkins, City of San Ramon
 - Matt Rinn, City of Pleasant Hill
 - Holli Thier, Town of Tiburon
 - Sally Wilkinson, City of Belvedere and City of Mill Valley
- Absent:**
- Tom Butt, City of Richmond
 - John Gioia, Contra Costa County
 - Ford Greene, Town of San Anselmo
 - Aaron Meadows, City of Oakley
 - Teresa Onoda, Town of Moraga
 - Doriss Panduro, City of Fairfield
 - Katie Rice, County of Marin
 - Shanelle Scales-Preston, City of Pittsburg
 - Christina Strawbridge, City of Benicia
 - John Vasquez, County of Solano
 - Brad Wagenknecht, County of Napa
 - Brianne Zorn, City of Martinez

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Staff

& Others: Jessica Brooks, Assistant Board Clerk
 Darlene Jackson, Board Clerk
 Vicken Kasarjian, Chief Operating Officer
 Ami Kundaria, Internal Operations Assistant
 Garth Salisbury, Director of Finance & Treasurer
 Stephanie Chen, Senior Policy Counsel
 Daniel Settlemyer, Internal Operations Coordinator
 Maira Strauss, Manager of Finance
 Shalini Swaroop, Chief Legal & Policy Officer
 Dawn Weisz, Chief Executive Officer

1. Roll Call

Acting Chair Murphy called the regular meeting to order at 7:06 p.m. with quorum established by roll call.

2. Board Announcements (Discussion)

There were none.

3. Public Open Time (Discussion)

Acting Chair Murphy opened up public open time and comments were made by members of the public, Ryan Pickering and Brendan Pittman.

4. Report from Chief Executive Officer (Discussion)

CEO Dawn Weisz, reported the following:

- Shared the passing of Doug Wilson:
 - Doug was born and raised in the Bay Area and was an active member of the Marin Conservation League since the 1980s. He most recently served as a member of their Board of Directors, and co-chaired Marin Conservation League's Climate Action Working Group.
 - Doug also served previously on the Fairfax Town Council and as Mayor, on the Marin County Parks, Open Space and Cultural Affairs Commission, chaired the Marin County Solid Waste Advisory Committee and represented Marin on the Metropolitan Transportation Commission.
 - Doug was a member of MCE's Community Power Coalition, and a frequent participant in our Technical Committee meetings. He always took the time to understand issues in great depth so that he could weigh-in with a solid foundation. He was a true bridge builder, and his collaborative and studious approach at MCE created a positive and productive relationship with MCL, truly

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adding value to our work at MCE. He will be missed, but his contributions and collaborative spirit will live on in our work.

- Power Supply transactions coming up:
 - A multi-year system resource adequacy, and two multi-year carbon free transactions
 - An upcoming hedge request for offer
 - A multi-year bundled renewable energy sales agreement with Clean Power San Francisco for its Disadvantaged Community (DAC) Green Tariff Program
- MCE has submitted a \$188M Energy Efficiency Application to the CPUC to expand our energy efficiency work over the next 8 years. This is a ground-breaking application that would greatly enhance our ability to do EE program in our area.
- MCE finalized and submitted to the CPUC its Supplier Diversity Report.
- On the CalCCA front:
 - A very productive CalCCA-hosted Lobby day was held this week in Sacramento.
 - Orange County Power Authority will launch service to commercial customers on April 1st, and then residential customers in October
 - The City of Auburn has signed up for 100-percent renewable energy. and is on its way to becoming the first city in Placer County to utilize power from 100-percent renewable energy resources.
- On the Legislative front:
 - MCE is beginning to meet with our federal delegation. Thanks to Board members for assisting in these meetings.
 - AB 1814: A template letter of support with other helpful documents have been circulated. In addition to all Board members, the documents were sent to each County Administrator and City/Town Manager in MCE's service area. We continue to receive favorable responses.
- As a reminder, the deadline for submitting your Form 700 to MCE is April 1st. If you have questions, please feel free to reach out to us.

5. Consent Calendar (Discussion/Action)

- C.1 Approval of 2.17.22 Meeting Minutes
- C.2 Approved Contracts For Energy Update
- C.3 Resolution No. 2022-04 Authorizing Continued Remote Teleconference Meetings for the Board of Directors and Every Committee of the Board of Directors Pursuant to Government Code Section 54953(e)
- C.4 Second Amended and Restated Demand FLEXmarket Agreement with Recurve Analytics, Inc.
- C.5 First Amended and Restated Schedule A.2 and Second Amended and Restated Schedule A.3 to the Master Services Agreement with Association for Energy Affordability

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Acting Chair Murphy opened the public comment period and there were no comments.

Action: It was M/S/C (Perkins/Thier) to **approve Consent Calendar items C.1 – C.5**. Motion carried by unanimous roll call vote. (Absent: Directors Butt, Gioia, Greene, Meadows, Onoda, Panduro, Rice, Scales-Preston, Strawbridge, Vasquez, Wagenknecht, and Zorn).

6. Fiscal Year 2022/23 Proposed Budget (Discussion/Action)

Garth Salisbury, Director of Finance & Treasurer, and Maira Strauss, Finance Manager, presented this item and addressed questions from Board members.

Acting Chair Murphy opened the public comment period and there were no comments.

Action: It was M/S/C (Coler/Perkins) to **approve the Fiscal Year 2022/23 proposed Budgets for the Operating Fund, Energy Efficiency Program Fund, Local Renewable Energy and Program Development Fund, and Resiliency Fund**. Motion carried by unanimous roll call vote. (Absent: Directors Butt, Gioia, Greene, Meadows, Onoda, Panduro, Rice, Scales-Preston, Strawbridge, Vasquez, Wagenknecht, and Zorn).

7. Resolution 2022-05 Appointing Director of Finance as Treasurer (Discussion/Action)

COO Kasarjian, presented this item and addressed questions from Board members.

Acting Chair Murphy opened the public comment period and there were no comments.

Action: It was M/S/C (Coler/Birsan) to **adopt Resolution No. 2022-05 Appointing Director of Finance as Treasurer**. Motion carried by unanimous roll call vote. (Absent: Directors Butt, Gioia, Greene, Meadows, Onoda, Panduro, Rice, Scales-Preston, Strawbridge, Vasquez, Wagenknecht, and Zorn).

8. Policy Update of Regulatory and Legislative Items (Discussion/Action)

Shalini Swaroop, Chief Legal & Policy Officer and Stephanie Chen, Senior Policy Counsel, presented this item and addressed questions from Board members.

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Acting Chair Murphy opened the public comment period and there were no comments.

Action: No action required.

11. Board Matters & Staff Matters (Discussion)

Comments were made by Director Kellman.

12. Adjournment

Acting Chair Murphy adjourned the meeting at 8:30 p.m. to the next scheduled Board Meeting on April 21, 2022.

Devin Murphy, Acting Chair

Attest:

Dawn Weisz, Secretary



May 19, 2022

TO: MCE Board of Directors

FROM: Bill Pascoe, Senior Power Procurement Manager

RE: Approved Contracts for Energy Update (Agenda Item #06 C.2)

Dear Board Members:

SUMMARY: This report summarizes contracts for energy procurement entered into by the Chief Executive Officer and if applicable, the Chair of the Technical Committee since the last regular Board meeting in March. This summary is provided to your Board for information purposes only, and no action is needed.

Review of Procurement Authorities

In March 2018, your Board adopted Resolution 2018-03 which included the following provisions:

The CEO and Technical Committee Chair, jointly, are hereby authorized, after consultation with the appropriate Committee of the Board of Directors, to approve and execute contracts for Energy Procurement for terms of less than or equal to five years. The CEO shall timely report to the Board of Directors all such executed contracts.

The CEO is authorized to approve and execute contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board of Directors.

The Chief Executive Officer is required to report all such contracts and agreements to the MCE Board of Directors on a regular basis.

<i>Item Number</i>	<i>Month of Execution</i>	<i>Purpose</i>	<i>Average Annual Contract Amount</i>	<i>Contract Term</i>
1	March, 2022	Purchase of Renewable Energy	\$832,047	Over 5 Years
2	March, 2022	Purchase of Renewable Energy	\$45,357	Over 5 Years
3	March, 2022	Purchase of Resource Adequacy	\$1,635,709	1-5 Years
4	March, 2022	Sale of Resource Adequacy	\$85,000	Under 1 Year
5	March, 2022	Sale of Resource Adequacy	\$275,000	Under 1 Year
6	March, 2022	Sale of Resource Adequacy	\$68,000	Under 1 Year
7	April, 2022	Purchase of Carbon Free Energy	\$1,250,000	1-5 Years
8	April, 2022	Purchase of System Energy (Hedge)	\$7,478,753	1-5 Years
9	April, 2022	Purchase of System Energy (Hedge)	\$6,273,960	Under 1 Year
10	April, 2022	Purchase of System Energy (Hedge)	\$4,213,440	Under 1 Year
11	April, 2022	Purchase of System Energy (Hedge)	\$4,047,223	Under 1 Year
12	April, 2022	Purchase of System Energy (Hedge)	\$9,668,893	1-5 Years
13	April, 2022	Purchase of Carbon Free Energy	\$1,250,000	1-5 Years
14	April, 2022	Purchase of Renewable Energy	\$1,960,750	1-5 Years
15	April, 2022	Purchase of Resource Adequacy	\$1,763,925	1-5 Years
16	April, 2022	Purchase of System Energy (Hedge)	\$5,588,457	1-5 Years
17	April, 2022	Purchase of System Energy (Hedge)	\$4,842,081	1-5 Years
18	May, 2022	Purchase of Resource Adequacy	\$144,000	Under 1 Year
19	May, 2022	Sale of Resource Adequacy	\$180,000	Under 1 Year
20	May, 2022	Purchase of Resource Adequacy	\$372,000	Under 1 Year
21	May, 2022	Sale of Resource Adequacy	\$457,500	Under 1 Year

Contract Approval Process: Energy procurement is governed by MCE's Energy Risk Management Policy as well as Board Resolutions 2018-03, 2018-04, and 2018-08. The Energy Risk Management Policy (Policy) has been developed to help ensure that MCE achieves its mission and adheres to its procurement policies established by the MCE Board of Directors (Board), power supply and related contract commitments, good utility practice, and all applicable laws and regulations. The Board Resolutions direct the CEO to sign energy contracts up to and including 12 months in length.

The evaluation of every new energy contract is based upon how to best fill MCE's open position. Factors such as volume, notional value, type of product, price, term, collateral threshold and posting, and payment are all considered before execution of the agreement.

After evaluation and prior to finalizing any energy contract for execution, an approval matrix is implemented whereby the draft contract is routed to key support staff and consultants for review, input, and approval. Typically, contracts are routed for commercial, technical, legal and financial approval, and are then typically routed through the Chief Operating Officer for approval prior to execution. The table below is an example of MCE staff and consultants who may be assigned to review and consider approval prior to the execution of a new energy contract or agreement.

<i>Review Owner</i>	<i>Review Category</i>
Lindsay Saxby (MCE Director of Power Resources)	Procurement / Commercial
John Dalessi/Brian Goldstein (Pacific Energy Advisors)	Technical Review
Steve Hall (Hall Energy Law)	Legal
Garth Salisbury (MCE Chief Financial Officer)	Credit/Financial
Vicken Kasarjian (MCE Chief Operating Officer)	Executive

Fiscal Impacts: Expenses and revenue associated with these Contracts and Agreements that are expected to occur during FY 2022/23 are within the FY 2022/23 Operating Fund Budget. Expenses and revenue associated with future years will be incorporated into budget planning as appropriate.

Recommendation: Information only. No action required.



May 19, 2022

TO: MCE Board of Directors

FROM: Brett Wiley, Senior Customer Programs Manager

RE: Second Agreement with EV.Energy Corp. (Agenda Item #06 C.3)

ATTACHMENT: Proposed Second Agreement with EV.Energy Corp.

Dear Board Members:

Summary:

The proposed Second Agreement with EV.Energy Corp. ("Agreement") would provide MCE the ability to scale up residential smart charging of electric vehicles ("EV") to save customers money, reduce grid emissions, and shift & shape EV load away from the 4pm-9pm peak.

Background:

Launched in Fall 2021, MCE Sync is a smart phone app managed by EV.Energy Corp. that helps MCE's customers automate home EV charging to use the least expensive and greenest energy on the grid.

The EV adoption rate in MCE's service area is one of the highest in the United States with around 3.5% of passenger vehicles in our service area being either full battery electric or plug-in hybrid vehicles. While the EV market is still in the early adoption stage, MCE has the opportunity to shape behavior and the load from EV charging to maximize benefits to our customers, MCE, and the grid. On average, 80% of EV charging happens at home and every EV adds around 50% to a resident's electricity usage so as the market grows the impact of facilitating and enabling home smart EV charging could be significant.

Since the launch of the pilot, MCE Sync has demonstrated the proposed value of smart EV charging to MCE and our customers. Enrolled participants are shifting over 95% of their EV charging load out of the 4pm-9pm peak window and saving on average \$9/month on their electricity bill. Customers who participated in the scheduled low carbon events are reducing grid emissions even more by charging during peak solar day time hours. For

example, MCE Sync's low carbon events reduced emissions of participants' home charging by 45% in March 2022.

Currently, MCE Sync has 236 enrolled participants in the pilot, which is closed to new enrollments. The goals for the proposed Agreement would be to enroll 4,000 participants by March 2023.

The proposed Agreement would continue EV.Energy's development and management of MCE Sync, while expanding their scope into new areas:

- Enhance MCE Sync customer features, such as smart charging aligned with home rooftop solar generation, monthly incentive payments sent through the MCE Sync platform, and improvements to the platform to prepare for the enrollment of the scaled-up program;
- Plan and implement customer marketing, education, & outreach and customer onboarding;
- Maintain and continuously improve the MCE Sync app, customer support, and back-end dashboards; and
- Prepare and analyze data in reports for use by MCE to monitor and evaluate the program.

The proposed Agreement is the result of demonstrated value from EV.Energy over the past year and the opportunity to shift even more EV charging load.

Fiscal Impact: The entire proposed budget of \$379,274 would come out of the approved FY 2022/23 Operating Budget. These funds are derived from the Local Renewable Energy & Program Development Fund, which is generated from a portion of Deep Green customer revenue.

Recommendation: Approve the Proposed Second Agreement with EV.Energy Corp.

MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT FOR VENDORS RECEIVING MCE DATA

SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND EV.ENERGY CORP.

THIS SECOND AGREEMENT ("Agreement") is made and entered into on May 20, 2022 by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and **EV.ENERGY CORP.**, a Delaware corporation, with a principal United States address at: **437 Kipling Street, Palo Alto** (hereinafter referred to as "Contractor") (each, a "Party," and, together, the "Parties").

RECITALS:

WHEREAS, MCE desires to retain Contractor to provide the services described in **Exhibit A** attached hereto and by this reference made a part hereof ("Services");

WHEREAS, Contractor desires to provide the Services to MCE;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the Services in accordance with the terms and conditions of this Agreement. "Services" shall also include cloud-based and/or SaaS solutions provided as part of the Services and any other work performed by Contractor pursuant to this Agreement.

2. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing Services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement ("Term"). Contractor shall provide MCE with Contractor's Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any Services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond ninety (90) days will not be reimbursable. The final invoice must be submitted within thirty (30) days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within thirty (30) days.

3. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the Services to be provided herein exceed the maximum sum of **\$379,274**.

4. TERM OF AGREEMENT:

This Agreement shall commence on **May 20, 2022** ("Effective Date") and shall terminate on **May 31, 2023**, unless earlier terminated pursuant to the terms and conditions set forth in Section 12.

5. REPRESENTATIONS; WARRANTIES; COVENANTS:

5.1. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor represents, warrants and covenants that (a) it is a **corporation** that is duly organized, validly existing and in good standing under the laws of the State of **Delaware**, (b) it has full power and authority and all regulatory authorizations required to execute, deliver and perform its obligations under this Agreement and all exhibits and addenda and to engage in the business it presently conducts and contemplates conducting, (c) it is and will be duly licensed or qualified to do business and in good standing under the laws of the State of California and each other jurisdiction wherein the nature of its business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder, (d) it is qualified and competent to render the Services and possesses the requisite expertise to perform its obligations hereunder, (e) the execution, delivery and performance of this Agreement and all exhibits and addenda hereto are within its powers and do not violate the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, (f) this Agreement and each exhibit and addendum constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, and (g) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

5.2. COMPLIANCE WITH APPLICABLE LAW: At all times during the Term and the performance of the Services, Contractor shall comply with all applicable federal, state and local laws, regulations, ordinances and resolutions ("Applicable Law")

- 5.3. LICENSING.** At all times during the performance of the Services, Contractor represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all required permits, licenses, certificates and registrations required for the operation of its business and the performance of the Services. Contractor shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.
- 5.4. NONDISCRIMINATORY EMPLOYMENT:** Contractor shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, gender identity, age or condition of disability. Contractor understands and agrees that Contractor is bound by and shall comply with the nondiscrimination mandates of all federal, state, and local statutes, regulations, and ordinances.
- 5.5. PERFORMANCE ASSURANCE.** Regardless of the specific Services provided, Contractor shall maintain any payment and/or performance assurances as may be requested by MCE during the performance of the Services.
- 5.6. SAFETY.** At all times during the performance of the Services and as applicable to the Services, Contractor represents, warrants and covenants that it shall:
- (a) abide by all applicable federal and state Occupational Safety and Health Administration requirements and other applicable federal, state, and local rules, regulations, codes and ordinances to safeguard persons and property from injury or damage;
 - (b) abide by all applicable MCE security procedures, rules and regulations and cooperate with MCE security personnel whenever on MCE's property;
 - (c) abide by MCE's standard safety program contract requirements as may be provided by MCE to Contractor from time to time;
 - (d) provide all necessary training to its employees, and require Subcontractors to provide training to their employees, about the safety and health rules and standards required under this Agreement;
 - (e) have in place an effective Injury and Illness Prevention Program that meets the requirements all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Additional safety requirements (including MCE's standard safety program contract requirements) are set forth elsewhere in the Agreement, as applicable, and in MCE's safety handbooks as may be provided by MCE to Contractor from time to time;
 - (f) be responsible for initiating, maintaining, monitoring and supervising all safety precautions and programs in connection with the performance of the Agreement; and
 - (g) monitor the safety of the job site(s), if applicable, during the performance of all Services to comply with all applicable federal, state, and local laws and to follow safe work practices.
- 5.7. BACKGROUND CHECKS.**
- (a) Contractor hereby represents, warrants and covenants that any employees, members, officers, contractors, Subcontractors and agents of Contractor (each, a "Contractor Party," and, collectively, the "Contractor Parties") having or requiring access to MCE's Confidential Information and Personal Data ("Covered Personnel") shall have successfully passed background screening on each such individual, prior to receiving access, which screening may include, among other things to the extent applicable to the Services, a screening of the individual's educational background, employment history, valid driver's license, and court record for the seven (7) year period immediately preceding the individual's date of assignment to perform the Services.
 - (b) INTENTIONALLY OMITTED.
 - (c) To the maximum extent permitted by applicable law, Contractor shall maintain documentation related to such background and drug screening for all Covered Personnel and make it available to MCE for audit if required pursuant to the audit provisions of this Agreement.
 - (d) INTENTIONALLY OMITTED.
- 5.8. INTENTIONALLY OMITTED.**
- 5.9. QUALITY ASSURANCE PROCEDURES.** Contractor shall comply with the following requirements (the "Quality Assurance Procedures"): (i) industry standard best practices; (ii) procedures that ensure customer satisfaction; and (iii) any additional written direction from MCE.
- 5.10. ASSIGNMENT OF PERSONNEL.** The Contractor shall not substitute any personnel for those specifically named in its proposal, if applicable, unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

5.11. INTENTIONALLY OMITTED.**6. INSURANCE:**

At all times during the Term and the performance of the Services, Contractor shall maintain the insurance coverages set forth below. All such insurance coverage shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, directors, officers, and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of Services. Certificate(s) of insurance must be current as of the Effective Date, and shall remain in full force and effect through the Term. If scheduled to lapse prior to termination date, certificate(s) of insurance must be automatically updated before final payment may be made to Contractor. Contractor shall provide MCE 30 days' notice in writing of any cancellation or reduction of coverage. Insurance coverages shall be payable on a per occurrence basis only, except those required by Section 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing in this Section 6 shall be construed as a limitation on Contractor's indemnification obligations in Section 17 of this Agreement.

Should Contractor fail to provide and maintain the insurance required by this Agreement, in addition to any other available remedies at law or in equity, MCE may suspend payment to the Contractor for any Services provided during any period of time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required insurance coverage.

- 6.1. GENERAL LIABILITY.** The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than **one million dollars (\$1,000,000) with a two million dollars (\$2,000,000)** aggregate limit. "Marin Clean Energy" shall be named as an additional insured on the commercial general liability policy and the certificate of insurance shall include an additional endorsement page (see sample form: ISO - CG 20 10 11 85).
- 6.2. AUTO LIABILITY (REQUIRED IF CHECKED ☐).** Where the Services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said Services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000).
- 6.3. WORKERS' COMPENSATION.** The Contractor acknowledges that the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If Contractor has employees, it shall comply with this requirement and a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to MCE prior to commencement of Services.
- 6.4. PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED ☐).** Contractor shall maintain professional liability insurance with a policy limit of not less than \$1,000,000 per incident. If the deductible or self-insured retention amount exceeds \$100,000, MCE may ask for evidence that Contractor has segregated amounts in a special insurance reserve fund, or that Contractor's general insurance reserves are adequate to provide the necessary coverage and MCE may conclusively rely thereon. Coverages required by this subsection may be provided on a claims-made basis with a "Retroactive Date" prior to the Effective Date. If the policy is on a claims-made basis, coverage must extend to a minimum of twelve (12) months beyond termination of this Agreement. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to the Effective Date, Contractor must purchase "extended reporting" coverage for a minimum of twelve (12) months after termination of this Agreement.
- 6.5. PRIVACY AND CYBERSECURITY LIABILITY (REQUIRED IF CHECKED ☒.** Contractor shall maintain privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$1,000,000 US per occurrence.

7. FINANCIAL STATEMENTS:

If the parties enter into a second agreement, Contractor shall deliver financial statements on an annual basis or as may be reasonably requested by MCE from time to time. Such financial statements or documents shall be for the most recently available audited or reviewed period and prepared in accordance with generally-accepted accounting principles.

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior, written approval of MCE, except for any subcontract work expressly identified herein in Exhibit A. "Subcontractor" shall mean a third-party to whom Contractor delegates specific deliverables listed in Exhibit A. If Contractor hires a Subcontractor under this Agreement, as applicable to the services

the Subcontractor provides, Subcontractor shall be bound by all applicable terms and conditions of this Agreement, and Contractor shall ensure the following:

- 8.1.** Subcontractor shall comply with the following terms of this Agreement: Sections 9, 10, Exhibit A.
- 8.2.** Subcontractor shall provide, maintain and be bound by the representations, warranties and covenants of Contractor contained in Section 5 hereof (as may be modified to be applicable to Subcontractor with respect to Section 5.1(a) hereof) at all times during the Term of such subcontract and its provision of Services.
- 8.3.** Subcontractor shall comply with the terms of Section 6 above, including, but not limited to providing and maintaining insurance coverage(s) identical to what is required of Contractor under this Agreement, and shall name MCE as an additional insured under such policies. Contractor shall collect, maintain, and promptly forward to MCE current evidence of such insurance provided by its Subcontractor. Such evidence of insurance shall be included in the records and is therefore subject to audit as described in Section 9 hereof.
- 8.4.** Subcontractor shall be contractually obligated to indemnify the MCE Parties (as defined in Section 17 hereof) pursuant to the terms and conditions of Section 17 hereof.
- 8.5.** Subcontractors shall not be permitted to further subcontract any obligations under this Agreement.

Contractor shall be solely responsible for ensuring its Subcontractors' compliance with the terms and conditions of this Agreement made applicable above and to collect and maintain all documentation and current evidence of such compliance. Upon request by MCE, Contractor shall promptly forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the Parties shall create any legal or contractual relationship between MCE and any Subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor's obligation to pay its Subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any monies to any Subcontractor.

9. RETENTION OF RECORDS AND AUDIT PROVISION:

Contractor shall keep and maintain on a current basis full and complete records and documentation pertaining to this Agreement and the Services, whether stored electronically or otherwise, including, but not limited to, valuation records, accounting records, documents supporting all invoices, employees' time sheets, receipts and expenses, and all customer documentation and correspondence (the "Records"). MCE shall have the right, during regular business hours, to review and audit all Records during the Term and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on Contractor's premises or, at MCE's option, Contractor shall provide all records within a maximum of fifteen (15) days upon receipt of written request from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

10. DATA, CONFIDENTIALITY AND INTELLECTUAL PROPERTY:

- 10.1. DEFINITION OF "MCE DATA".** "MCE Data" shall mean all data or information provided by or on behalf of MCE, including but not limited to, customer Personal Information; energy usage data relating to, of, or concerning, provided by or on behalf of any customers; all data or information input, information systems and technology, software, methods, forms, manuals, and designs, transferred, uploaded, migrated, or otherwise sent by or on behalf of MCE to Contractor as MCE may approve of in advance and in writing (in each instance); account numbers, forecasts, and other similar information disclosed to or otherwise made available to Contractor. MCE Data shall also include all data and materials provided by or made available to Contractor by MCE's licensors, including but not limited to, any and all survey responses, feedback, and reports subject to any limitations or restrictions set forth in the agreements between MCE and their licensors. MCE Data also includes any data created as a result of MCE's use of the Contractor's Services.

"Confidential Information" under this Agreement shall have the same meaning as defined in the Marin Clean Energy Non-Disclosure Agreement between the Parties dated **July 1, 2021**.

- 10.2. DEFINITION OF "PERSONAL INFORMATION".** "Personal Information" includes but is not limited to the following: personal and entity names, e-mail addresses, addresses, phone numbers, any other public or privately-issued identification numbers, IP addresses, MAC addresses, and any other digital identifiers associated with entities, geographic locations, users, persons, machines or networks. Contractor shall comply with all applicable federal, state and local laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

10.3. MCE DATA SECURITY MEASURES. Prior to Contractor receiving any MCE Data, Contractor shall comply, and at all times thereafter continue to comply, in compliance with MCE's Data security policies set forth in MCE Policy 009 (available upon request) and MCE's Advanced Metering Infrastructure (AMI) Data Security and Privacy Policy ("Security Measures") and pursuant to MCE's Confidentiality provisions in Section 5 of the Marin Clean Energy Non-Disclosure Agreement between the parties dated **July 1, 2021**, and as set forth in MCE Policy 001 - Confidentiality. MCE's Security Measures and Confidentiality provisions require Contractor to adhere to reasonable administrative, technical, and physical safeguard protocols to protect the MCE's Data from unauthorized handling, access, destruction, use, modification or disclosure.

10.4. CONTRACTOR DATA SECURITY MEASURES. Additionally, Contractor shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures consistent with the sensitivity of Personal Information and Confidential Information including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Personal Information and Confidential Information, and (2) protect MCE content and MCE Data against unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

10.5. RETURN OF MCE DATA. Promptly after this Agreement terminates unless the parties enter into a second agreement, (i) Contractor shall securely destroy all MCE Data in its possession and certify the secure destruction in writing to MCE, and (ii) each Party shall return (or if requested by the disclosing Party, destroy) all other Confidential Information and property of the other (if any), provided that Contractor's attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

10.6. OWNERSHIP AND USE RIGHTS.

- a) **MCE Data.** Unless otherwise expressly agreed to in writing by the Parties, MCE shall retain all of its rights, title and interest in MCE's Data.
- b) **Intellectual Property.**
 - 1. **Work Product.** Unless otherwise expressly agreed to in writing by the Parties and subject to 10.6(b)(2) below, any and all deliverables, materials, information, or other intellectual property created, prepared, accumulated or developed by Contractor or any Contractor Party for MCE under this Agreement ("Work Product"), including finished and unfinished inventions, processes, templates, documents, drawings, designs, calculations, valuations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, manuals, visual materials, data, data models and samples, including summaries, extracts, analyses and preliminary or draft materials developed in connection therewith, and including any intellectual property therein, shall be owned by MCE. Work Product shall not include any modifications to any part of the Contractor's intellectual property, software, algorithm, vehicle/charger application programming interfaces ("APIs"), or mobile app. MCE shall have the exclusive right to use the Work Product in its sole discretion and without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide Work Product to MCE or to any party MCE may designate upon written request. Contractor may keep one file reference copy of Work Product prepared for MCE solely for legal purposes and if otherwise agreed to in writing by MCE. In addition, Contractor may keep one copy of Work Product if otherwise agreed to in writing by MCE. The Work Product shall be owned by MCE upon its creation. Contractor agrees to execute any such other documents or take other actions as MCE may reasonably request to perfect MCE's ownership in the Intellectual Property.
 - 2. **Contractor's Pre-Existing Materials.** To the extent the Work Product includes Contractor's Pre-Existing Materials, Contractor hereby grants MCE on behalf of its customers and the CPUC for governmental and regulatory purposes a non-exclusive, worldwide, unlimited, fully paid, right to access and use and sublicense others to use the Pre-Existing Materials for its and their business purposes during the Term of this Agreement. MCE will not resell, modify, decompile, disassemble, or reverse engineer the Pre-Existing Materials except as otherwise expressly authorized under this Agreement or permitted by Law; MCE will not remove any proprietary marks or confidentiality notices appearing on the Pre-Existing Materials. Unless otherwise expressly agreed to by the Parties, Contractor shall retain all of its rights, title and interest in Contractor's Pre-Existing Materials. Any and all claims to Contractor's Pre-Existing Materials to be furnished or used to prepare, create, develop or otherwise manifest the Intellectual Property must be expressly disclosed to MCE prior to performing any Services under this Agreement. For the avoidance of doubt, "Contractor's Pre-Existing Materials" means Contractor's pre-existing intellectual property and materials developed prior to and/or independently of this Agreement, and includes Contractor's cloud-based software solutions, mobile application and designs, and APIs used by Contractor in the performance of Services.
- c) The intellectual property of the software, algorithm, vehicle and charger APIs, and mobile app provided by the Contractor (other than open-source software and third-party software) is, and shall remain, the property of the Contractor, and the Contractor reserves the right to grant a license to use its software to any other party or parties. MCE acquires no rights in or to the Contractor's software and accompanying documentation other than those expressly granted by this Agreement except MCE shall own any data or results from MCE's use of the software. MCE shall not permit any third parties (apart from its employees, including fellows and/or interns, and customers) to access the Contractor's software and/or Services without its prior written consent.
- d) **APIs.** MCE acknowledges that the Contractor's Services are partly dependent on open-source software and third-party APIs made available from electric vehicle and charger manufacturers. MCE acknowledges that this open-source software

is provided 'as is' and the Contractor makes no representation or warranty that third-party APIs will be continuously available throughout the term of this Agreement.

10.7. EQUITABLE RELIEF. Each Party acknowledges that a breach of this Section 10 would cause irreparable harm and significant damages to the other Party, the degree of which may be difficult to ascertain. Accordingly, each Party agrees that MCE shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of MCE Data or Personal Information, in addition to any other rights and remedies that it may have at law or otherwise; and Contractor shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of Contractor's Pre-Existing Materials, in addition to any other rights and remedies that it may have at law or otherwise.

11. FORCE MAJEURE:

A Party shall be excused for failure to perform its obligations under this Agreement if such obligations are prevented by an event of Force Majeure (as defined below), but only for so long as and to the extent that the Party claiming Force Majeure ("Claiming Party") is actually so prevented from performing and provided that (a) the Claiming Party gives written notice and full particulars of such Force Majeure to the other Party (the "Affected Party") promptly after the occurrence of the event relied on, (b) such notice includes an estimate of the expected duration and probable impact on the performance of the Claiming Party's obligations under this Agreement, (c) the Claiming Party furnishes timely regular reports regarding the status of the Force Majeure, including updates with respect to the data included in Section 10 above during the continuation of the delay in the Claiming Party's performance, (d) the suspension of such obligations sought by Claiming Party is of no greater scope and of no longer duration than is required by the Force Majeure, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the Force Majeure; (f) the Claiming Party shall exercise commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the Affected Party; (g) when the Claiming Party is able to resume performance of the affected obligations under this Agreement, the Claiming Party shall give the Affected Party written notice to that effect and promptly shall resume performance under this Agreement. "Force Majeure" shall mean acts of God such as floods, earthquakes, fires, orders or decrees by a governmental authority (including "shelter-in-place" orders), civil or military disturbances, wars, riots, terrorism or threats of terrorism, utility power shutoffs, strikes, labor disputes, pandemic, or other forces over which the responsible Party has no control and which are not caused by an act or omission of such Party.

12. TERMINATION:

- 12.1.** If the Contractor fails to provide in any manner the Services required under this Agreement, otherwise fails to comply with the terms of this Agreement, violates any Applicable Law, makes an assignment of any general arrangement for the benefit of creditors, files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it, otherwise becomes bankrupt or insolvent (however evidenced), or becomes unable to pay its debts as they fall due, then MCE may terminate this Agreement by giving five (5) business days' written notice to Contractor.
- 12.2.** Either Party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other Party. Notice of termination shall be by written notice to the other Party and be sent by registered mail or by email to the email address listed in Section 19.
- 12.3.** In the event of termination not the fault of the Contractor, the Contractor shall be paid for Services performed up to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s). Notwithstanding anything contained in this Section 12, in no event shall MCE be liable for lost or anticipated profits or overhead on uncompleted portions of the Agreement. Contractor shall not enter into any agreement, commitments or subcontracts that would incur significant cancellation or termination costs without prior written approval of MCE, and such written approval shall be a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12. Also, as a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12, Contractor shall have delivered to MCE any and all Work Product (as defined in Section 10.1(b)) prepared for MCE before the effective date of such termination.
- 12.4.** MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.
- 12.5.** The Contractor may terminate this Agreement with immediate effect if MCE fails to make payment within 30 calendar days' written notice of arrears which have accumulated to a value greater than or equal to \$20,000 worth of previously-raised and overdue invoices.
- 12.6.** Without limiting the foregoing, if either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only, and the remaining provisions will remain in full force and effect.
- 12.7.** Upon termination of this Agreement for any reason, Contractor shall and shall cause each Contractor Party to bring the Services to an orderly conclusion as directed by MCE and shall return all MCE Data (as defined in Section 10.1(a) above) and Intellectual Property to MCE.

12.8. Notwithstanding the foregoing, this Agreement shall be subject to changes, modifications, or termination by order or directive of the California Public Utilities Commission ("CPUC"). The CPUC may from time to time issue an order or directive relating to or affecting any aspect of this Agreement, in which case MCE shall have the right to change, modify or terminate this Agreement in any manner to be consistent with such order or directive.

12.9. Notwithstanding any provision herein to the contrary, Sections 2, 3, 8.4, 9, 10, 12, 15, 16, 17, 18, 19, 20, 21, 22, 24, Exhibit B of this Agreement shall survive the termination or expiration of this Agreement.

13. ASSIGNMENT:

The rights, responsibilities, and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE.

14. AMENDMENT; NO WAIVER:

This Agreement may be amended or modified only by written agreement of the Parties. Failure of either Party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

15. DISPUTES:

Either Party may give the other Party written notice of any dispute which has not been resolved at a working level. Any dispute that cannot be resolved between Contractor's contract representative and MCE's contract representative by good faith negotiation efforts shall be referred to Legal Counsel of MCE and an officer of Contractor for resolution. Within 20 calendar days after delivery of such notice, such persons shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If MCE and Contractor cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Contractor shall have the right to pursue all rights and remedies that may be available at law or in equity. All negotiations and any mediation agreed to by the Parties are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

16. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the Parties hereto agree that venue shall be in Marin County, California.

17. INDEMNIFICATION:

To the fullest extent permitted by Applicable Law, Contractor shall indemnify, defend, and hold MCE and its employees, officers, directors, representatives, and agents ("MCE Parties"), harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, litigation costs, attorney's fees and costs, physical damage to or loss of tangible property, and injury or death of any person) arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, fraud of all Contractor Parties; b) the failure of a Contractor Party to comply with the provisions of this Agreement, including the failure to pay Participants (defined below in Exhibit A) the Participant's expected incentive amounts, or Applicable Law., or Applicable Law; c) any defect in design, workmanship, or materials carried out or employed by any Contractor Party; d) breach of any third party intellectual property rights; e) breach of applicable laws; or f) breach of privacy, security or confidentiality obligations. Except for claims arising from Contractor's breach of confidentiality with MCE Data, Contractor's liability to MCE shall not exceed the maximum value of this Agreement listed in Section 3.

18. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.). Pursuant to MCE's Joint Powers Agreement, MCE is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations, and liabilities accruing and arising out of this Agreement. No Contractor Party shall have rights and nor shall any Contractor Party make any claims, take any actions, or assert any remedies against any of MCE's constituent members in connection with this Agreement.

19. INVOICES; NOTICES:

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address:	invoices@mcecleanenergy.org
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All other notices shall be given to MCE at the following location:

Contract Manager:	Troy Nordquist
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MCE Address:	1125 Tamalpais Avenue
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San Rafael, CA 94901

Email Address:	contracts@mcecleanenergy.org
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Telephone No.:	(925) 378-6767
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Notices shall be given to Contractor at the following address:

Contractor:	Nick Woolley
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Address:	28 Lynwood Road
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Redhill RH1 1JS, United Kingdom

Email Address:	nick.woolley@ev.energy
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Telephone No.:	+44 7940 712031
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20. ENTIRE AGREEMENT; ACKNOWLEDGMENT OF EXHIBITS:

This Agreement along with the attached Exhibits marked below constitutes the entire Agreement between the Parties. In the event of a conflict between the terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement shall govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>	<u>MCE'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services		
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment		
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	Service Levels		

21. SEVERABILITY:

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. INDEPENDENT CONTRACTOR:

Contractor is an independent contractor to MCE hereunder. Nothing in this Agreement shall establish any relationship of partnership, joint venture, employment or franchise between MCE and any Contractor Party. Neither MCE nor any Contractor Party will have the

power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

23. TIME:

Time is of the essence in this Agreement and each and all of its provisions.

24. THIRD PARTY BENEFICIARIES:

The Parties agree that there are no third-party beneficiaries to this Agreement either express or implied.

25. FURTHER ACTIONS:

The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.

26. PREPARATION OF AGREEMENT:

This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and this Agreement shall not be construed against either Party as a result of the manner in which this Agreement was prepared, negotiated or executed.

27. COUNTERPARTS:

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

28. DIVERSITY SURVEY:

Pursuant to Senate Bill 255 which amends Section 366.2 of the California Public Utilities Code, MCE is required to submit to the California Public Utilities Commission an annual report regarding its procurement from women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises ("WMDVLGBTBE"). Consistent with these requirements, Contractor agrees to provide information to MCE regarding Contractor's status as a WMDVLGBTBE and any engagement of WMDVLGBTBEs in its provision of Services under this Agreement. Concurrently with the execution of this Agreement, Contractor agrees to complete and deliver MCE's Supplier Diversity Survey, found at the following link: <https://forms.gle/DUBkcdFCskb7NNcA8> (the "Diversity Survey"). Because MCE is required to submit annual reports and/or because the Diversity Survey may be updated or revised during the term of this Agreement, Contractor agrees to complete and deliver the Diversity Survey, an updated or revised version of the Diversity Survey or a similar survey at the reasonable request of MCE and to otherwise reasonably cooperate with MCE to provide the information described above. Contractor shall provide all such information in the timeframe reasonably requested by MCE.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

CONTRACTOR:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____

Chairperson

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

☐ **Standard Short Form Content Has Been Modified**

List sections affected: 1, 5.5, 5.6, 5.7, 5.8, 5.9, 5.11, 6, 7, 8, 10.1, 10.5, 10.6, 11, 12.5, and 17.

Approved by MCE Counsel: _____

Date: _____

Exhibit A:
EV.Energy Scope of Work for MCE Sync Scale Up

Contractor will scale up the MCE Sync Pilot ("MCE Sync") in four phases:

1. Phase 1: Planning and development;
2. Phase 2: Marketing and MCE Sync app participants ("Participant(s)") enrollment;
3. Phase 3: Managed EV charging and program implementation; and
4. Phase 4: Performance assessment, EM&V and reporting.

Phase 1: Planning and development (Planned for May 20, 2022 to June 30, 2022; dates subject to change upon mutual written agreement between the Parties), Contractor will:

- Make enhancements to the MCE Sync app with new features including a Smart tab; the Smart tab will offer the ability for Participants to: set their EV-full-charge-ready-by times by day of the week, export and download EV charging costs, and align EV charging with local rooftop solar generation;
- Publish the MCE Sync app to MCE's public Apple and Google Play stores;
- Establish a back-end confirmation process for on-boarding Participants, enrolling Participants in the PeakFlex market, and verifying Participants are MCE customers using Service Agreement ID ("SAID"), MCE account number or other unique identifier;
- Establish a process with MCE to calculate and administer off-bill financial incentives to Participants participating in PeakFlex Market or other market/demand-response events;
- Make any requested changes by MCE to the web-based data dashboard to improve the data availability, organization, and/or aesthetics;
- Integrate Contractor's platform with MCE's PeakFlex Market dispatches and other grid signals as requested; and
- Update FAQ/Scripts for MCE to handle inbound Participant inquiries about MCE Sync as needed.

Phase 2 (May 20, 2022 to August 31, 2022 minimum commitment, with additional months as requested by MCE), Contractor will:

- Develop a multi-channel marketing & customer outreach plan with the aim of enrolling an additional 2,300 Participants by August 31, 2022 and a total of 4,000 Participants by March 2023;
- Develop a strategy to best utilize MCE's \$30/Participant one-time enrollment budget, while considering financial inequities and using PeakFlex Market revenue for payment of the enrollment;
- Implement marketing, outreach, and enrollment plan;
- Develop marketing collateral to recruit Participants for the summer reliability season, identifying optimal Participant profiles, and on-boarding Participants, to be reviewed by MCE Marketing Team lead for adherence to branding guidelines;
- Execute all marketing-related tasks in coordination with MCE Marketing Team lead; and
- All materials developed by Contractor in Phase 2 will be the property of MCE for continued marketing efforts of MCE and MCE Sync.

Phase 3 (Planned for June 1, 2022 – May 31, 2023; dates subject to change upon mutual written agreement between the Parties), Contractor will work with MCE to:

- Provide Participant enrollment and managed EV charging for a total of 4,000 Participants;
- In accordance with MCE's Service Level Agreement (see below), provide front-line customer service, complaint handling and issue resolution for participants, technical assistance for Participants, maintenance of FAQ and website for Participant engagement;
- Calculate and administer off-bill financial incentives to Participants using PeakFlex Market or other market/demand-response events;
- Running, maintaining and continuously improving the Contractor platform, ensuring compliance with California cybersecurity and data privacy laws;
- Continuous improvement of the Contractor charging algorithm, building on monthly results and learnings to further improve performance;
- Provide MCE access to Contractor's back-end portal, with visual and downloadable data on Participant participation, capacity connected to the platform, past and forecast energy consumption, carbon intensity, charging locations, Participant use behavior, Low Carbon Fuel Standard credit data, and Demand Response event participation; and
- Deliver twice-monthly check-ins and once-monthly results & impacts reports to MCE. The results & impacts report will be delivered to MCE no later than the 5th business day for reporting of the month prior.

Phase 4 (Planned for February 1, 2023 – March 31, 2023; dates subject to change upon mutual written agreement between the Parties), Contractor will work with MCE and EM&V provider (to be determined) to:

- Synthesize results and distill lessons learned from Phase 3;
- Prepare a program report summarizing performance, key lessons learned, and implications for MCE's procurement, customers, & local Community Based Organizations; and
- Support MCE's Customer Programs team to craft innovative propositions for Participants and potential participants based on results, feedback from customer focus groups, and regulatory/IT constraints.

The success of the scale up will require MCE to fulfill its commitments and coordinate with external parties, including:

- Providing Contractor with a list of all known EV customers and their contact information, as well as timely input and sign-off on marketing materials to support recruitment efforts;
- Providing Contractor with customer-level account information in a timely manner to support PeakFlex Market enrollment and verify Participant status following on-boarding onto the MCE Sync app;
- Offering and administering a \$30 one-time enrollment incentive, as well as up to \$10/month participation incentives for all eligible Participants;
- Providing Contractor with the needed data/API feeds for the PeakFlex market and any other desired grid/market feeds;
- Coordinating with an Evaluation, Measurement and Verification ("EM&V") provider on all EM&V efforts; and

Coordination with PG&E on similar EV programs including the Public Safety Power Shutoff pilot (with WeaveGrid) and the Smart Home Charge Program (with AutoGrid).

By maximizing residential customer enrollment and optimizing Participants' EV charging according to seasonal criteria, Contractor will:

- Aim for 2,500 total Participants by August 2022 and 4,000 total Participants by March 2023; and
- Include PeakFlex Market signals for EV charging during the summer months (June-September), time-of-use/carbon-intensity signals during other months, and event-based signals as directed by MCE.

EVs and home chargers currently eligible for MCE Sync include:

- BMW i3, i4, iX, 3 series, 5 series, 7 series, X3, X5
- Tesla Models S/X/Y/3
- Volkswagen e-Golf
- Chevy Bolt EUV/Bolt/Volt
- Ford Mach-E Mustang
- Jaguar iPace
- Land Rover Range Rover PHEV
- ChargePoint Home/ Home Flex

Over the term of the Agreement Contractor will make the following additional EV and home chargers eligible for MCE Sync:¹

- Ford F-150 Lightning
- Toyota bz4X, Prius Prime, RAV4 Prime
- Volkswagen ID.4
- Enel X JuiceBox Level 2 EV Charger
- Siemens VersiCharge (3rd generation)
- SmartenIt SmartElek cable

Assumptions and Understandings:

- Contractor may participate as an aggregator in MCE's PeakFlex market; any funds received by Contractor as an aggregator in MCE's PeakFlex market will be passed through to Participants and applied as a credit to the invoice to MCE for Participant incentive amounts owed by MCE to Participants under the MCE Sync program. Contractor will use commercially reasonable efforts to avoid double-dipping of funds from the MCE PeakFlex market program and the MCE Sync app program.
- All marketing work provided by Contractor is subject to MCE Public Affairs Team's approval.
- Both Parties shall comply at all times during the Term with the following MCE service level agreement ("SLA") that provides MCE's expectations for customer interactions by Contractor:
 - Contractor shall keep a 99% platform uptime.
 - Contractor and all subcontractors responding to, or engaging directly with, MCE customers shall respond to direct customer inquiries no later than within 3 business days after the inquiry is received. Unless otherwise agreed to, Contractor and subcontractors are to provide two options for customer contact (email and phone). Unless otherwise agreed to, the Contractor shall provide MCE with a process, to document customer issues, escalations and resolutions.
 - MCE to review and approve the Outreach Plan.
 - MCE to review and approve all branded customer facing materials (digital and physical content) before Contractor and/or subcontractor uses and distributes them.
 - Contractor will provide the following customer information ("Customer Information") to MCE: when and how the Pilot participants and potential Pilot participants will be contacted, what data will be collected, how that information will be stored, how that information will be shared with MCE, the process for handling customer complaint escalation, and identification of key individuals associated with Contractor or subcontractor who have been specifically assigned to

¹ This list reflects Contractor's roadmap and is in no way a commitment to deliver any additional hardware compatibility. Should MCE desire to fast-track any EV or home charger integrations for specific dates, additional costs will apply.

work with MCE customers and the key individuals' subsequent outreach and response activities throughout the 3 Phases.

- Contractor to provide to MCE monthly reports which will include lead generation, outreach status, Customer Information updates and any customer complaints, feedback and escalations.
- Contractor shall comply with Contractor's standard service levels (included as Exhibit C) including 99% platform uptime and response to inbound Participant support queries within 3 business days.
MCE understands that the success of the Pilot depends on its ability to fulfill its commitments, namely:
 - Provide Contractor with timely requirements, feedback and sign-off on MCE Sync updates;
 - Provide Contractor with MCE tariff prices and structures and the customer-level account information necessary (Name, Email Address, Rate Plan, Verification of supply status) to complete the above tasks; and
 - Provide Contractor with a list of eligible EV customers and their contact information, as well as timely sign-off by MCE Public Affairs team on marketing materials, to support recruitment efforts.
- MCE Sync app Terms and Conditions are subject to modification and approval by MCE.

MCE acknowledges that Contractor's connectivity to the above pieces of hardware is dependent on Original Equipment Manufacturer server uptime, Participant's home WiFi connectivity and Participant's subscription to any required vehicle telematics data plans.

The scale-up of MCE Sync will maintain a control group, to be determined by the EM&V provider, of MCE customers who will continue to charge as normal, without any managed charging or incentives. The third-party EM&V provider (to be determined) will identify the control group and provide the EM&V in coordination with Contractor. Contractor will be responsible for provide charging data from all registered MCE Sync participants to the EM&V provider for evaluation.

EXHIBIT B FEES AND PAYMENT SCHEDULE

For Services provided under this Agreement, MCE shall pay Contractor in accordance with the amount(s) and the payment schedule as specified below:

Phase 1 One-Time Costs; Not to Exceed \$100,000

- Enhancements to the MCE Sync app & re-publishing to public app stores (\$50,000)
- Additional API (Not to Exceed \$50,000; \$10,000 per integration) if needed and as directed by MCE Customer Programs staff:
 - Required
 - SAID or other Participant-verification lookup; and
 - PayPal, Venmo or other off-bill payment mechanism;
 - Optional examples
 - MCE PeakFlex Market signals
 - CAISO Flex Alerts
 - PG&E public safety power shutoff alerts
 - MCE procurement price signals

Phase 2 Monthly Costs; Not to Exceed \$51,774

- Marketing planning, execution and Participant recruitment services (\$5,000/month)
 - Minimum commitment of May 20, 2020 – August 31, 2022; pro-rated for May
 - Month-to-month thereafter, with 30 days' notice required from MCE prior to termination or re-activation
 - Costs include labor and materials for digital campaigns; any print campaigns will be approved by and invoiced to MCE at cost

Phase 3 Monthly Costs; Not To Exceed \$227,500

- Managed EV charging, front-line Participant support, back-end Participant verification, Participant incentive calculation, regular platform updates, program management and monthly data/performance reporting:
 - Minimum commitment of up to 500 active vehicles (total \$7,500/month)
 - 501 – 1,000 active vehicles (total \$12,500/month)
 - Each additional tranche of 500 active vehicles, triggered by enrollment of the 1,001st active vehicle (an additional \$1,500/month)
- Off-bill financial incentive administration to Participants participating in PeakFlex Market or other market/demand-response events:
 - Invoiced to MCE at cost each month, less any proceeds Contractor has received from the MCE PeakFlex Market for enrolled Participants

Phase 4 One-Time Costs:

- EM&V and final program report (no cost)

Contractor will invoice MCE monthly for the deliverables it has completed in the previous calendar month. Payment for deliverables is subject to MCE Customer Programs staff review and approval of deliverables and their related invoices. In no event shall the total cost to MCE for the services provided herein exceed the **maximum sum of \$379,274** for the Term of the Agreement.

EXHIBIT C
Service Levels

a) Availability Service Level.

1) Definitions.

(a) "Maintenance Window" shall mean the total minutes in the reporting month represented by the mutually agreed day(s) and time(s) during which Service Provider shall maintain the Services.

(b) "Scheduled Downtime" shall mean the total minutes in the reporting months represented by the Maintenance Window.

(c) "Scheduled Uptime" shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Service Level Standard. Services will be available to Authorized Users for normal use 99% of the Scheduled Uptime.

b) Technical Support Problem Response and Resolution Service Level.

1) Service Level Standard. The Service Provider will respond to two categories of problems associated with delivery of the Services:

i) Problems that shall be investigated and resolved within 3 working days if the problem prevents >25% of Authorized Users from accessing the Services to charge their vehicle as required; and

ii) Problems that shall be investigated and resolved within 15 working days if >25% of Authorized Users are able to access the Services to charge their vehicle as required but are unable to access a specific functionality delivered by the Service Provider.



May 19, 2022

TO: MCE Board of Directors

FROM: Shalini Swaroop, Chief Legal and Policy Officer

RE: Policy Update of Regulatory and Legislative Items

Dear Board Members:

Below is a summary of the key activities at the state and federal legislatures and the California Public Utilities Commission (CPUC) impacting Community Choice Aggregation (CCA) and MCE.

I. **Legislative Advocacy**

a. **State Legislative Advocacy**

The state legislative session continues to be eventful. Staff provide the following updates on bills previously identified as early priorities:

- AB 1814 (Grayson) - This bill would have given CCAs access to CPUC funding to support transportation electrification. Unfortunately, facing extremely strong opposition from the Investor Owned Utilities (IOUs) and their political allies, AB 1814 will not move forward this year. CalCCA, the bill's sponsor, continues to pursue other avenues, including the state budget, to expand the funds available to CCAs for transportation electrification.
- SB 881 (Min) – This bill would make electric sector greenhouse gas (GHG) targets enforceable by allowing the California Public Utilities Commission (CPUC) to have authority over CCA procurement and penalties. Unfortunately, negotiations with Senator Min have stalled, and MCE has come out in opposition to the bill. *Staff urges Board Members to join MCE in opposition.* While MCE strongly supports California's GHG reduction goals, the mechanism proposed in this bill is unworkable. Additional

political pressure will help bring key stakeholders to the table to identify a workable path forward on this important issue.

- SB 1158 (Becker) – This bill would change emissions reporting rules to support achievement of hourly electric GHG targets. CalCCA continues to have productive conversations with Senator Becker’s office, and is hopeful that these talks will lead to a bill both CalCCA and MCE can support.
- SB 1287 (Bradford) – This bill would increase the Financial Security Requirements (FSR) applicable to CCAs. CalCCA is pursuing amendments to better align the bill with the actual costs the FSR is intended to cover.

Additionally, staff is analyzing SB 1020 (Laird, Caballero, Durazo, and Atkins). This bill would establish interim targets for renewable and emissions-free power leading up to the existing goal of 100% renewable and emissions-free power by 2045. SB 1020 would also establish an independent California Affordable Decarbonization Authority and a Climate and Equity Trust Fund within the state budget. Together, these entities could fund a range of programs including, but not limited to, wildfire mitigation, transportation electrification, energy efficiency, and other public purpose programs currently funded through electric rates. Funding these programs through sources other than electric bills will help reduce rates, making it easier for customers to pay their bills and increase the affordability of building and transportation electrification efforts. However, more work is needed to maintain that CCAs will be eligible to receive these funds and to ensure a steady, sufficient source of funding for the most essential programs, including bill savings assistance for low-income customers.

b. Federal Legislative Advocacy

Last month, MCE staff and Directors Quinto and Murphy traveled to Washington, D.C. to meet with MCE’s Congressional delegation and key agency representatives. The trip was part of MCE’s efforts to:

1. Raise MCE’s national profile;
2. Position MCE to be competitive for the forthcoming grants to be issued under the Infrastructure Investment and Jobs Act; and
3. Support three requests MCE submitted for Community Directed Spending:
 - \$1M to expand the Healthy Homes program to an additional 200 families,
 - \$2M for 385 more EV chargers for multifamily properties, workplaces, and municipal sites, and
 - \$500,000 for clean backup batteries at five critical community facilities.

As of the writing of this Staff Report, the requests submitted by each Congressman are not yet public, but more information will be available by the date of the Board meeting.

II. California Public Utilities Commission

a. Supplier Diversity Proceeding – Final Decision Incorporating CCAs into the Supplier Diversity Program

On April 18, 2022, the CPUC issued Decision (D.) 22-04-035, which formally incorporates CCAs into the CPUC's Supplier Diversity Program (Program). The Program has been running since the 1980s and is designed to promote statewide economic growth and equity by encouraging utilities to include businesses owned by women, people of color, disabled veterans, and LGBT people in their procurement and contracting opportunities. The Program was expanded to include CCAs with the passage of SB 255 (Bradford) in 2019. While this decision formally implements SB 255, MCE and several other CCAs have been reporting supplier diversity results to the Commission since 2020, and MCE has participated actively in CPUC supplier diversity events and activities since 2018.

The reporting requirements set forth for CCAs take into account the fact that Proposition 209 precludes CCAs, as public agencies, from making special efforts to include businesses owned by women and by people of color in CCA procurement processes. The reporting requirements will also include an opportunity for CCAs to detail their procurement from small and local businesses, which are central to MCE's Sustainable Workforce Policy and to MCE's role as a community partner. In addition to incorporating CCAs into the Program, the decision also makes other changes, including adding a new category of diverse businesses - those owned by persons with disabilities - that will eventually be included in annual reporting. The Program will also add new reporting requirements, anticipated in the next couple of years for workforce diversity and board diversity.

b. Resource Adequacy (RA) Proceeding – Final Decision Revising the Central Procurement Entity (CPE) Framework

On March 17, 2022 the CPUC issued D. 22-03-034 addressing near-term implementation issues affecting the CPEs' procurement of 2023 local RA resources.

The CPUC originally adopted the CPE framework in 2020. The framework is in its first implementation year and is focused on local RA procurement for RA compliance year 2023. Under the CPE framework adopted in 2020, Pacific Gas and Electric Company (PG&E) and Southern California Edison (SCE) are to procure all RA needed to meet their respective distributions areas' local RA needs. In November 2021, however, compliance reports filed by PG&E and SCE, as the

CPEs, indicated insufficient procured local RA procurement for 2023. In PG&E's case, it fell short of its CPE requirements by as much as 6,000 MW for 2023.

The decision adopts some improvements to the original CPE framework and timelines, many of which were advocated for by MCE via CalCCA, including: (a) mitigating contracting barriers that disincentivized LSEs from participating in CPE procurement efforts; (b) authorizing PG&E and SCE to hold additional solicitations to meet 2023 local RA requirements; (c) limiting liability for Load Serving Entities (LSE) that choose to participate in CPE procurement activities; and (d) ordering more robust future reporting by PG&E and SCE explaining their respective CPE procurement activities. The decision denied CalCCA's and other stakeholders' request to modify the CPE timeline to better align with CCAs' RA procurement and compliance timelines. Importantly, however, the CPUC signaled potential interest in revisiting the overall CPE framework to assess whether it is the optimal means to meet the state's local RA procurement needs.

c. Power Charge Indifference Adjustment (PCIA) – Voluntary Allocation & Market Offer (VAMO) Process

On May 20, 2021, the CPUC adopted D.21-05-003, which approved the VAMO process to allocate PCIA-eligible renewable energy to other LSEs, including MCE. The allocated renewable energy would come from an IOU's Renewables Resource Portfolio (RPS) resource pool that MCE customers pay for through the PCIA. The PCIA recovers above-market costs for procurement commitments made by IOUs before customers departed to other providers, like MCE. If PG&E can allocate or sell some of its excess RPS energy from its eligible resource pool, this may lower the PCIA and help MCE meet its renewable energy requirements.

The RPS energy allocations are expected to begin in 2023. MCE continues to track and address numerous uncertainties related to the allocations through CPUC processes including: (a) the timelines surrounding the allocations; (b) the allocation volumes; and (c) the value of the allocation. These issues are material to MCE's ability to decide whether to pursue RPS energy allocations.

On May 5, 2022, MCE Staff received authority from MCE's Technical Committee to: (a) determine whether to accept an allocation from PG&E; (b) elect a share from the short- and long-term resource pools; and (c) enter into any necessary agreements to effectuate the allocation.

Staff will continue to monitor the development of the VAMO process and provide updates to the Board on the status of any allocations or elections as they become available.

Recommendation: Information only. No action required.